

COMPLAINT

(for filers who are prisoners without lawyers)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

U.S. DISTRICT COURT
EASTERN DISTRICT - WI
FILED

2020 MAY 20 P 1:38

CLERK OF COURT

(Full name of plaintiff(s))

Denzel Sumanta Rivers

v.

(Full name of defendant(s))

Case Number:

20-cv-00721-PP

(to be supplied by Clerk of Court)

Sgt. Brandon Fisher, Sgt. Joseph Beahm, LT. Jeremy Stancic,
LT. Thomas Nelson, officer John Birdyshaw, % Allen Muelhorn, % Amy Felski,
% Saskia Alderden, RN Robert Weiman, RN Vick Gwendolyn, ICE James
Muenchow, Sgt. John Doe Schultz Phalin, % John Doe White, Sgt. John Doe Schmidt

A. PARTIES

1. Plaintiff is a citizen of Wisconsin, and is located at
(State)

Waupun Correctional Institution P.O. Box 351 Waupun, WI 53983
(Address of prison or jail)

(If more than one plaintiff is filing, use another piece of paper.)

2. Defendant Brandon Fisher, Thomas Nelson, Joseph Beahm, Jeremy Stancic, John Birdyshaw,
Saskia Alderden, Robert Weiman, Vick Gwendolyn, Amy Felski, James Muenchow, John (Name) Doe Schultz Phalin
is (if a person or private corporation) a citizen of Wisconsin

and (if a person) resides at Waupun Correctional Institution P.O. Box 351, Waupun, WI 53963
(State, if known)
(Address, if known)

and (if the defendant harmed you while doing the defendant's job)

worked for Waupun Correctional Institution P.O. Box 351, Waupun, WI 53963
(Employer's name and address, if known)

(If you need to list more defendants, use another piece of paper.)

B. STATEMENT OF CLAIM

On the space provided on the following pages, tell:

1. Who violated your rights;
2. What each defendant did;
3. When they did it;
4. Where it happened; and
5. Why they did it, if you know.

1) On October 19th, 2019 I, Denzel S. Rivers #503053 was housed in Waupun Correctional Institution Segregation unit in cell A-212 on A-Ring upper.

2) Throughout my incarceration I have been diagnosed with Asthma and once was on a Nebulizer Breathing Machine as well as prescribed a Albuterol Inhaler, Alvasco Inhaler, and Montelukast pill to control my Asthma Before October 19th, 2019.

3) All Correctional officers in Waupun Correctional Institution Segregation unit are Required to have a Body Camera on during all interactions with inmates that record Audio and Video.

4) On October 19th, 2019 during Second Shift in Waupun Prison Segregation unit upper A-Ring inmate Ronald Walker #46473 was sprayed with incapacitating agent by Sergeant Brandon Fisher in a attempt to gain compliance.

5.) All upper A Rang Ventilation Systems were cut off then restarted with only the INTAKE Vent that's directly by the cell door turned to its Max Sucking air within the cell as well as air outside the cell inside this Intake Vent.

6.) This Exposed me to the Second hand Incapacitating Agent spray that lingered from inmate Walker #46473 cell during the minutes his cell door was open to be Handcuffed, Put in Shackles, and removed After sprayed.

7.) I begin Coughing out of control gasping for air triggering my Known ~~Asthma~~.

8.) I immediately pushed my emergency call button in cell A-212 and informed officer Saskia Alderden, being the officer working Control, I could not breathe, Need inhaler, and have chest pain.

9.) Sergeant John Doe Schmidt, being upper A Rang officer, arrived at my cell A-212 with my Albuterol Inhaler.

10.) Behind me coughing so much I developed pain when I breathe in or out with my Albuterol Inhaler being of little help still gasping for air.

11.) At 7:20pm I pushed my emergency call button with means to see a nurse but officer Saskia Alderden immediately hung up my call.

12.) At 7:26 pm inmate David Mahon #513176 in cell A-213 pushed his emergency call button to officer Saskia Alderden to reveal my

medical emergency but got No Response.

13.) I continued pushing my emergency call button but got no response from officer Saskia Alderden.

14.) Sergeant John Doe Schmidt conducted medication pass and arrived at my cell A-212 in which I told him I couldn't breathe, chest pain when I breathe in and out behind the second hand exposure to the incapacitating spray.

15.) Sergeant John Doe Schmidt immediately left from my cell and came back at 7:38pm stating he informed the unit Sergeant Brandon Fisher of my medical emergency as well as RN Vick Gwendolyn and continued passing out medications.

16.) At 7:45pm inmate Pierre Pickens #480791 in cell A-211 pushed his emergency call button to relay my medical emergency and officer Saskia Alderden told him "The Nurse Will Be Up."

17.) I was Never Seen by a Nurse on 10-19-19 After the use of this incapacitating agent.

18.) At 7:53pm I pushed my emergency call button and officer Saskia Alderden picked up then hung up.

19.) From 8pm through 8:45pm myself and inmate Pierre Pickens #480791 in cell A-211 pushed our emergency call button but received No response from Officer Saskia Alderden.

20.) At 8:47pm Sergeant John Doe Schmidt passed out mail on upper A-Rang and approached my cell A-212 to see I covered my cell window with my blanket for means for Medical attention, then walked off.

21.) At 8:55pm L.T. Jerney Staniec and Sergeant John Doe Schmidt approached my cell A-212 to get me to uncover my window in which I tried telling both of my medical emergency while wheezing in pain.

22.) L.T. Jerney Staniec opened my Cell Trap, I stuck my hands out with my maintenance Allbutal Inhaler in my hand but dropped

my Albuteral inhaler on the floor outside my cell in which LT. Jeremy Starice closed my trap, picked up my inhaler and walked off with my inhaler.

23.) Without my maintenance Albuteral Inhaler I ended up passing out from an Asthma Attack.

24.) I eventually came to, sat up for a minute, and managed to write a sign that stated "CAN'T BREATHE, CHEST PAIN, MEDICAL EMERGENCY" and stuck it in my cell A-212 window, and sat back down.

25.) At 9:45pm Sergeant John Doe Schmidt stopped at my cell A-212 and seen the sign in my window as well as me wheezing and stated to me He will tell the Unit Sergeant again then walked off.

26.) I tried standing up to put my arms above my head in order to open up my breathing but ended up passing out again.

27.) After coming to, At 10:05pm during Third Shift I pushed my medical Emergency button which summoned officer Amy Felski being the officer working in Control Station.

28.) I informed officer Amy Felski of my medical emergency but was told she would notify the Unit Sergeant.

29.) At 10:10pm I pushed my button again and officer Amy Felski told me that the Sergeant was notified.

30.) At 10:11pm Unit Sergeant John Doe Schultz 'Phalin conducted his first round on upper A-rang and while at my cell A-212 that revealed the sign in window "CAN'T BREATHE, CHEST PAIN, MEDICAL EMERGENCY" I tried telling this Sergeant best I could of my Medical Emergency and was told "THE NURSE WAS INFORMED" and kept walking.

31.) From 10:15pm through 10:30pm I continued pushing my emergency button, but got no response from officer Amy Felski.

32.) At 10:30pm officer John Doe White conducted his first round on upper A-rang and approached my cell in which I pointed at my

Sign in my window and was told "I will contact someone" and walked off.

33.) At 10:37pm I pushed my emergency button again and officer Amy Felski picked up my call then immediately hung up.

34.) At 10:38pm inmate Pierre Pickens #480791 in Cell A-211 pushed his emergency button and revealed my emergency matter but was told by officer Amy Felski "The Sergeant is well aware, worry about yourself" then hung up.

35.) At 10:52pm inmate Pierre Pickens in cell A-211 pushed his emergency button to officer Amy Felski stating he was feeling suicidal as means to get officers at my cell A-212.

36.) Sergeant John Doe Schultz 'Phalin approached inmate Pierre Pickens #480791 cell A-211 in which inmate Pickens told this Sergeant he needed to check up on inmate Rivers next door.

37.) Sergeant John Doe Schultz 'Phalin looked into my cell A-212 to see me wheezing gasping for air with the sign "CANT BREATHE CHEST PAIN MEDICAL EMERGENCY" in my window, but stepped back to cell A-211 to tell inmate Pickens #480791 that "Rivers is OK." then walked off.

38.) At 11:05pm LT. Thomas Nelson conducted his first round on upper A-Rang and approached my cell A-212 to see the visible sign in my window and tried telling him of my medical emergency but he walked off.

39.) At 11:30pm officer John Doe White conducted his second round on A-Rang upper, passed my cell A-212 with this sign in the window but walked off.

40.) At 12:10 AM on 10-20-19 Third Shift LT. Thomas Nelson did his second round on upper A-rang and approached my cell A-212 in which I told him again of my issue but told me "Did the Sergeant

talk to you yet." then walked off.

41.) At 12:30 Am on 10-20-19 Third Shift Officer John Doe White Conducted another round and when he approached my cell and I revealed my medical issue he mentioned "What do I want him to do about it" then walked off.

42.) At 1:10 Am Sergeant John Doe Schultz'Phala did yet another round and revealed to me He called the Nurse already then walked off.

43.) RN Vick Gwendolyn was the Nurse on Third Shift yet Never provided me medical attention.

44.) From 1:11 Am through 2:30 am I continued pushing my emergency call button in which Officer Amy Felski told me to stop pushing my button and that I would receive a Conduct Report, yet provided me no assistance.

45.) I laid on the cool floor with means to cool my body ~~to~~ to also control my breathing and was unable to see who else did their rounds, though the Sign Still in Windows.

46.) On October 20th 2019 during First Shift at 6:06 Am I pushed my Emergency Button and Officer John Birdyshaw Worked control in which I told him about my Shortness of breath and pain when I breathe in and out but was told to "Let my Rang Officer Know".

47.) At 6:22 Am Officer Allen Muelhorn approached my cell A-212 for Medications during A.M medication pass in which I told him of my Medical concern, but Done nothing.

48.) At 6:22 Am at medication pass I requested my Montelukast Asthma medications, received them, but my ~~in~~ inhaler was Not on the medication Cart during this medication pass.

49.) At 6:27 Am I pushed my medical Emergency Button to Officer John Birdyshaw and revealed my Shortness of Breath and pain when I breathe in and out but was told "Nurse was notified about my issue but is not worried."

50.) Unit Sergeant Joseph Beahm and RN Robert Wieman conducted their controlled medication and nearly approached my cell A-212 when myself and inmate Pierre Pickens in cell A-211 revealed that I had a medical emergency.

51.) Unit Sergeant Joseph Beahm yelled at me that I should have thought about that before I exposed myself to a female officer on 10-19-19 2nd shift - "in relation to a rumor that's of No Record."

52.) Unit Sergeant Joseph Beahm stepped away from the RN Robert Wieman and approached my cell door that reveal the sign "CAN'T BREATHE, CHEST PAIN, MEDICAL EMERGENCY" and stated "You OK" and walked off with RN Robert Wieman.

53.) I revealed that I would file a Civil claim against both Sergeant Joseph Beahm and RN Robert Wieman in which Sergeant Joseph Beahm stated "I don't care."

54.) At 7:00 AM I pushed my button to officer John Bidyszaw and asked for medical attention and my Inhaler but was told "No."

55.) At 7:18 AM I pushed my button to officer John Bidyszaw revealing my shortness of breath and pain when I breathe in or out but was told "Stop pushing your button, You a Real Bitch Today."

56.) At 12:06 PM on 10-20-19 Unit Sergeant Joseph Beahm approached my cell A-212 to escort me to the Health Unit for medical attention.

57.) Once Sergeant Joseph Beahm handcuffed me from behind while seeing the sign in my cell door window, "CAN'T BREATHE, CHEST PAIN, MEDICAL EMERGENCY," Sergeant Joseph Beahm verbally told me I will be going on a 10 Day Paper Restriction. - Taken into consideration I told him I would file a claim against ~~him~~ him and RN Robert Wieman.

58.) At 12:28 PM I was evaluated by RN Robert Wieman in which I verbally ^{medically} stated I had chest pain when I breathe in or out and difficulties breathing after Incapacitating Agent Spray was used 10-19-19 2nd shift.

59.) RN Robert Wieman only provided me 1-puff of a New Albuterol

Inhaler Seeing that mine was missing as well as RN Robert Weinman personal reports being different in diagnoses from my Verbal report. - Take into consideration I told RN Robert Weinman I would file a claim ~~then~~ prior to evaluation.

60.) Before being put back in my cell A-212 Sergeant Joseph Beahm Authorized for all my paper to be removed from my cell.

61.) I was on a KNOX Legal Court deadline of October 24th, 2019 that Sergeant Joseph Beahm was aware of in which everyday of the Weekday I was pulled out of cell A-212 for Daily Law Library.

62.) I was Unable to Carry out my Law Library research, personally fill out Health Request forms due to Sergeant Joseph Beahm personally Authorizing for all my paper to be removed from my cell.

63.) On October 24th, 2019 a follow up of my Asthma Attack was conducted by R.N Robert C. Ahlberg that reveals that I had faint wheezing, pain with forced cough and palpation of chest wall that differed from R.N Robert Weinman evaluation. RN Robert C. Ahlberg referred me to a Doctor. ~~Robert Weinman~~

64.) On October 24th, 2019 during First Shift Captain Kyle Tritt Authorized for me to receive all my paper back Seeing that the 10 day loss of Paper Restriction Sergeant Joseph Beahm personally put me on was Not Authorized by a Supervisor or Security Director. on October 120th, 2019.

65.) Sergeant John Die Schultz Phelan returned all my paper.

66.) On September 17th, 2019 Complaint #WCE-2019-11408 was Filed by & me against Complaint Examiner James Marchow for failure to Carry out his Job duties in properly investigating a Complaint I Filed.

67.) On October 31st, 2019 I Submitted Complaint #WCE-2019-18958 against Sergeant Joseph Beahm for putting me on an UNAuthorized paper restriction on 10-20-19 in which Complaint Examiner James Marchow purposely Rejected to Retaliate against me.

68.) On November 6th, 2019 officer Amy Felts revealed under Conduct Report

Nb: 52376/ 000-9 Form that "she ISOLATED my Emergency intercom to keep it open for Actual Emergency from other inmates," though also revealed under questioning that "it was not to her knowledge that I received medical attention" with being the officer working Control with access to hallway cameras, cell door control, and Emergency intercom.

69.) On October 25th, 2019, and November 8th, 2019 Complaint Examiner James Muenchow RETURNED my complaints against Sergeant Joseph Beahm pertaining my ~~unauthorized~~ unauthorized paper restriction, claiming that I didn't follow proper rules in which I did being revealed in Complaint.

70.) On November 11th, 2019 Complaint Examiner James Muenchow Failed to Process my Complaint including all said Defendants claiming I mention several Staff from different areas and different times, but all matters related to denied Medical care.

71.) On November 12th, 2019 I resubmitted this Complaint against all said Defendants in which Complaint Examiner James Muenchow later revealed that he never received this Complaint.

72.) On December 4th, 2019 I resubmitted a Complaint against all said defendants in which Complaint Examiner James Muenchow Returned claiming I named several Staff, at different times on different dates, but all matters related to denied medical care.

73.) On December 6th, 2019 I resubmitted this Complaint revealing all relations but Complaint Examiner James Muenchow sent a memo to State Complaint Will NOT be processed nor Returned.

74.) On December 9th, 2019 I ~~resubmitted~~ resubmitted a Complaint against all said defendants in which Complaint Examiner James Muenchow Returned both my Complaint and a Return letter stating "Complaint will not be Returned/medical care 10-19-2019" but mistakenly Returned the Complaint.

75.) On December 17th, 2019 I Submitted Complaint #WCI-2019-21781 against Complaint Examiner James Muenchow failing to Return the multiple Complaints he failed to Process against all said Defendants.

76.) On November 21st 2019 I sent out U.S. Mail to my Brother Deshree Rivers in Fox Lake Correctional Institution asking for help finding a attorney to represent me and officer John Birdyshaw was the officer sorting mail on third shift on this same date.

77.) On December 7th 2019 I received U.S. Mail from my family stating that the letter I sent to my brother Deshree Rivers in Fox Lake prison on 11-24th 19 arrived without the actual letter inside it.

78.) Third Shift Officers are to inspect inmate to inmate mail and officer John Birdyshaw tampered with my mail in relation to the complaint I filed against him dated 10-20-19 matter.

79.) On December 16th 2019 I filed this complaint against officer John Birdyshaw but Complaint Examiner James Muenchow Retaliated and returned this Complaint of claims I can not file two complaints per week when I showed good cause for a second complaint.

80.) Complaint Examiner James Muenchow, officer John Birdyshaw, and Sergeant Joseph Beahn all retaliated against me.

81.) LT. Thomas Nelson, LT. Jeremy Starzec, Sgt. Brandon Fisher, Sgt. Joseph Beahn, Sgt. John Doe Schmidt, Sgt. John Doe Schultz' Phalin, officer John Birdyshaw, officer Soska Alderdeg, officer Allen Muelhorn, officer Amy Felski, officer John Doe White, RN Robert Wienman, and RN Vick Gwendolyn were deliberate indifferent to my medical care and was an act of cruel and unusual punishment.

82.) All above officers disregarded my medical need due to these officers feeding off a rumor that I exposed myself to a female officer though there is no record of this on 10-19-19.

83.) See "Kurzych v. Prison Health Service Inc. 627 F.3d 1215, 1219 (11th Cir. 2010) Prisoners need not file multiple successive grievances raising the same issue, see Siggers v. Campbell 652 F.3d 681, 692 (8th Cir. 2011) Separate Complaints about particular incidents are only required if the underlying facts or the Complaints are different." See "Kurley

V. Rednour, 729 F.3d 645, 650 (7th Cir. 2013) once the prisoner has received notice of, and an opportunity to correct, a ~~problem~~ problem, the prisoner has satisfied the purpose of the Exhaustion Requirement.

I declare under penalty of perjury that the foregoing is True and Correct.

Derzel S. Rivers #503053
Waupun Correctional Institution
P.O. Box 351
Waupun, WI 53983

Derzel S. Rivers
May 6th, 2020

C. JURISDICTION



I am suing for a violation of federal law under 28 U.S.C. § 1331.

OR



I am suing under state law. The state citizenship of the plaintiff(s) is (are) different from the state citizenship of every defendant, and the amount of money at stake in this case (not counting interest and costs) is \$_____.

D. RELIEF WANTED

Describe what you want the Court to do if you win your lawsuit. Examples may include an award of money or an order telling defendants to do something or to stop doing something.

Defendants Violated my 8th and 1st Amendments of Deliberate Indifference and Retaliation. Denied medical care for a serious medical need could have cost me my life. Putting me on a Bogus Paper Restriction as well as Purposely Denying my Complaint prevented me from legally given voice to the matter. Therefore, I sue all Defendants in their official and individual capacity for ONE HUNDRED THOUSAND dollars in Compensatory Damages and 15 THOUSAND in Punitive Damages to include a "T.R.D." To be Transferred to Green Bay Correctional Institution with a PERMANENT SINGLE CELL. "See T.R.D."

E. JURY DEMAND

I want a jury to hear my case.

☐ - YES

☒ - NO

I declare under penalty of perjury that the foregoing is true and correct.

Complaint signed this 6th day of May 2020.

Respectfully Submitted,

Dequell J. Rivers

Signature of Plaintiff

503053

Plaintiff's Prisoner ID Number

Waupun Correctional Institution

P.O. Box 351 Waupun, WI 53963

(Mailing Address of Plaintiff)

(If more than one plaintiff, use another piece of paper.)

REQUEST TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING THE FULL FILING FEE



I **DO** request that I be allowed to file this complaint without paying the filing fee. I have completed a Request to Proceed in District Court without Prepaying the Full Filing Fee form and have attached it to the complaint.



I **DO NOT** request that I be allowed to file this complaint without prepaying the filing fee under 28 U.S.C. § 1915, and I have included the full filing fee with this complaint.